

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,
STATE OF MINNESOTA,
STATE OF CALIFORNIA,
STATE OF NORTH CAROLINA,
STATE OF TENNESSEE,
STATE OF TEXAS, and
STATE OF UTAH,

Plaintiffs,

v.

AGRI STATS, INC.,

Defendant.

No. 0:23-CV-03009-JRT-JFD

**DECLARATION OF KATHERINE A. MOERKE IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

I, Katherine A. Moerke, state that the following are true and correct factual statements of which I have personal knowledge:

1. The January 5, 2024 Meet-and-Confer Statement by Liam Phibbs (ECF No. 81) certifies that he met and conferred with me via “discussing, in part” Agri Stats’ Motion to Dismiss (ECF No. 77) on November 8, 2023 and on November 14, 2023.

2. Mr. Phibbs’ certification is inaccurate.

3. I did not meet and confer with Mr. Phibbs on November 8, 2023 regarding Agri Stats’ Motion to Dismiss. Rather, Mr. Phibbs and I exchanged e-mails regarding Agri Stats’ Motion to Transfer (ECF No. 42) on November 6 through 8, 2023. Attached as Exhibit A is our e-mail exchange.

4. On November 14, 2023, I met and conferred with Mr. Phibbs and others via a conference call regarding the deadline for Agri Stats to respond to the operative Complaint and a possible briefing schedule, but the basis or substance of a motion to dismiss by Agri Stats was not discussed during that call. Attached as Exhibit B is an email exchange leading up to the call.

5. I have never discussed the basis or substance of a motion to dismiss by Agri Stats with Agri Stats' counsel.

6. Plaintiff States Texas and Utah were not yet parties on any of the dates listed in Agri Stats' Meet-and-Confer Statement. Texas and Utah joined the case the day after the November 14 call. *See* Second Am. Compl., (Nov. 15, 2023), ECF No. 50.

7. Plaintiffs informed Agri Stats that the Meet-and-Confer Statement was inaccurate by letter dated January 11, 2024. Attached as Exhibit C is that letter.

8. On January 19, 2024, Agri Stats responded via email declining to correct the errors in its Meet-and-Confer Statement. Attached as Exhibit D is that email. Ex.

This declaration is made pursuant to 28 U.S.C. § 1746, and I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 26, 2024, in Minneapolis, Minnesota.

s/Katherine A. Moerke

Katherine A. Moerke